

FILED  
WANDA PEARCE

JUN 17 2016

IN THE DISTRICT COURT OF MARSHALL COUNTY  
STATE OF OKLAHOMA

LITTLE GLASSES RESORT,

Plaintiff,

v.

NEW HAMPSHIRE INSURANCE  
COMPANY,

Defendant.

Case No. CJ-16-33

Time \_\_\_\_\_  
Court Clerk of Marshall County  
By \_\_\_\_\_ Deputy

PETITION

COMES NOW the Plaintiff, LITTLE GLASSES RESORT., (hereinafter "Plaintiff"), and for its causes of action against Defendant, NEW HAMPSHIRE INSURANCE COMPANY, (hereinafter referred to as "Defendant"), does hereby allege and state as follows:

STATEMENT OF FACTS

1. Plaintiff is situated in Madill, Marshall County, Oklahoma. Plaintiff has an insurable interest in the property located at 13443 Parrot Head Lane, Madill, Oklahoma 73446, (hereinafter referred to as "Building").
2. Defendant is an insurance company incorporated under the laws of the State of Illinois, and is registered to engage in the business of insurance in the State of Oklahoma.
3. Plaintiff entered into a contract for insurance with Defendant to provide coverage for its property and its contents. Plaintiff's insured property is located in Marshall County, Oklahoma.

EXHIBIT

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4. Defendant issued the Commercial policy of insurance, Policy DMO 690-92-44 (the "Policy"), to the Plaintiff.
5. Defendant represented to the Plaintiff that it would conduct itself in accordance with Oklahoma law and would fully and faithfully investigate and pay claims. Plaintiff relied on said representations.
6. On or about May 16, 2015, the Building insured under the Policy was severely damaged as a direct result of a wind/hailstorm.
7. On June 17, 2015, the Building insured under the Policy was severely damaged as a direct result of Tropical Storm Bill.
8. Plaintiff timely and properly submitted a claim to Defendant, for the property damage incurred due to the wind/hailstorm and Tropical Storm Bill.
9. Defendant assigned a claim number of LXMP6608A9 and LXMP66224A9, but denied that the cause of Plaintiff's property damage was due to wind/hailstorm, or that the loss was covered under the terms and conditions of the Policy with Defendant.

**FIRST CAUSE OF ACTION**  
**BREACH OF CONTRACT**

10. Plaintiff adopts and incorporates by reference paragraphs 1 through 8 above as if fully plead herein, and for further claims against the Defendant alleges as follows:
11. Plaintiff entered into a contract for insurance with Defendant to provide

coverage for the Buildings, business loss, and business personal property.

12. At all times material hereto, the Policy, No. DMO 690-92-44, was in full force and effect.
13. Plaintiff provided timely and proper notice of its claims of all covered damages resulting from the wind/hailstorm on or about May 16, 2015 and damages resulting from Tropical Storm Bill on June 17, 2015.
14. Plaintiff has complied with the terms and conditions and all conditions precedent under the Policy.
15. As to the the windstorm/hailstorm damages that underlie Plaintiff's claim, Defendant has under paid the claim.
16. By failing to fully indemnify Plaintiff for losses covered by the contract of insurance, Defendant has breached its contractual obligations under the terms and conditions of the Policy with Plaintiff by failing to pay Plaintiff all benefits owed.
17. Defendant's conduct is the proximate cause of Plaintiff's damages.
18. As a result of the Defendant's breach of contract the Plaintiff has sustained financial losses.
19. As a result of Defendant's breach of contract and Plaintiff has sustained financial losses and has been damaged in an amount in excess of Ten Thousand Dollars (\$10,000.00), exclusive of attorneys' fees, costs and interest.



**SECOND CAUSE OF ACTION**  
**BAD FAITH**

20. Plaintiff adopts and incorporates by reference paragraphs 1 through 19 above as if fully plead herein, and for further claims against the Defendant alleges as follows:
21. Defendant owed a duty to Plaintiff to deal fairly and act in good faith.
22. Defendant breached their duty to deal fairly and act in good faith by failing to timely and properly investigate, evaluate and/or pay the Plaintiff's claim.
23. Defendant's obligations to the Plaintiff arise from both express written terms under the Policy as well as implied obligations under Oklahoma law.
24. Defendant's conduct is a material breach of the terms and conditions of the insurance contract entered into with the Plaintiff and constitutes bad faith.
25. As a direct and proximate result of Defendant's bad faith conduct, Plaintiff's claim was unnecessarily delayed, inadequately investigated, and wrongfully underpaid. Said actions resulted in additional profits and a financial windfall to Defendant, and to the damage and detriment of Plaintiff.
26. As a result of the Defendant's conduct, the Plaintiff has sustained financial losses.
27. As a result of Defendant's conduct the Plaintiff has sustained financial losses and has been damaged in an amount in excess of Ten Thousand Dollars (\$10,000.00), exclusive of attorneys' fees, costs and interest.

28. The conduct of Defendant was intentional, willful, malicious, and in reckless disregard to the rights of Plaintiffs, and said conduct is sufficiently egregious in nature to warrant the imposition of punitive damages.
29. The amount of punitive damages sought to be recovered is in excess of the amount required for diversity jurisdiction pursuant to Section 1332 of Title 28 of the United States Code.
30. Plaintiff further alleges Defendant benefited from increased financial benefits and ill-gotten gains as a direct result of the intentional and wrongful conduct described above, which resulted in further damage to the Plaintiffs.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, premises considered, the Plaintiff prays for judgment against Defendant, NEW HAMPSHIRE INSURANCE COMPANY, as follows:

- a. Payment of all contractual benefits for all coverages afforded to Plaintiff under the subject policy of insurance for damage to its Building and personal property caused by the May 16, 2015 and June 17, 2015, wind/hail storm, together with interest on all amounts due;
- b. Disgorgement of the increased financial benefits derived by Defendant as a direct result of Defendant's wrongful or intentional, willful, malicious and/or reckless conduct;
- c. Actual and punitive damages each in an amount in excess of Ten

Thousand Dollars (\$10,000.00), and

- d. Attorneys' fees, costs and interest, including pre-judgment and post-judgment interest.

Respectfully submitted,

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***ATTORNEY FOR PLAINTIFF***

**ATTORNEYS' LIEN CLAIMED  
JURY TRIAL DEMANDED**